

**REMARKS**

In response to the Patent Office letter of February 24, 2005, the Applicant respectfully requests reexamination and reconsideration. To further the prosecution of this application, amendments have been made herein. At the present time, claims 1, 3-5, 7-12, 14-23, 26-30, 32-37, and 39-49 are pending in the application.

In the Patent Office letter, the Examiner has indicated that he has withdrawn allowability of previously allowed claims. On page 2 of the Patent Office letter the Examiner has objected to the drawings because of the recitation in claim 13. With the cancellation now of claim 13, this drawing objection should be overcome.

On page 3 of the Patent Office letter, the Examiner has rejected certain claims under 35 U.S.C. §112. Amendments have been made where appropriate in these claims and thus this rejection should now be moot.

In pages 3-10 of the Patent Office letter, the Examiner has set forth a rejection under both 35 U.S.C. §102 as well as under 35 U.S.C. §103. The Examiner now relies upon the Duncraft reference. Regarding the Duncraft reference, the Examiner has stated that this shows a "fastening member." The Examiner has further stated that this has been shown "based on the broadly recited limitation of the fastener member." In certain of the independent claims, the recitation of a "fastening member" has now been more specifically defined to render these claims patentably distinguishable over the Duncraft reference or any other prior art cited by the Examiner. The Examiner has also relied upon the applicant's own earlier patent No. 5,558,040 to Colwell et al. for its alleged teaching of a clamp. In order to overcome this rejection, the Applicant has also made amendments in certain independent claims to clearly recite that the clamp concept of the present invention did not relate to a pole for a feeder but instead relates to a device for placement about the seed holder housing.

With regard to the Duncraft reference, it is noted that there is no teaching of the use of a threaded plug to essentially connect the base of the feeder with the base of the seed tube. This is

illustrated, for example, in Fig. 7 of the present application by the threaded plug 28 that engages between the base 18 of the selective housing and the base of the seed tube. By removing this threaded plug, one can easily disengage the selective housing from the rest of the bird feeder for the purpose of cleaning the bird feeder. In the Duncraft structure although it is not described in any detail in the Duncraft reference, the Applicant believes that the apertured housing is permanently attached to the base and there is not taught any way to easily and readily detach the housing and the seed tube.

With regard to the Colwell '040 patent, it is noted that they describe a clamp 85 which is meant to be disposed about the pole 19. The clamp 85 in this reference is not disposed about any tubular seed holder. The clamp 85 is disposed about the pole 19 but has absolutely no contact relative to the seed holder. In this prior art reference, the housing 13 would be considered the seed holder and the clamp 85 has no engagement therewith. Also, there is no suggestion either in Colwell '040 or in Duncraft as to how a clamping mechanism would be used with the seed holder housing. There is thus no suggestion of a combination of references as alleged by the Examiner.

The Applicant also notes several other rejections made by the Examiner. However, in view of the amendments that have been carried out in the claims, it is believed that these other rejections are now moot and that all claims in this application should be in condition for allowance. All claims in the application recite either further specifics relating to the removable threaded plug arrangement or to the clamping means as it relates to the seed holder tube.

Regarding the claims, claim 1 has now been amended to add the further language relating to the threaded plug. The fastening member is now defined as comprising a threaded plug that is adapted to removably connect through a substantially centrally disposed aperture in said selective housing base to the base of said seed holder. A similar limitation has also been added to claim 40. In addition, claims 46-49 have been added to the application as dependent claims. These recite further specific features relating in particular to the fastening member. These specifics are not at all found in the prior art relied upon by the Examiner. Furthermore, claim 49 is considered as a linking

claim reciting both of the aforementioned features, namely the threaded plug as well as the clamping means.

The other independent claims in the application, namely claims 27, 32 and 36, have also been further amended. In each of these claims, the seed holder is defined as including a base and a cylindrical seed housing that together define a compartment for bird seed. The recited clamp is now specifically defined as comprising an annular member that is secured about the seed holder cylindrical housing. With these recitations and these other independent claims, it is believed that all claims in this application should now be in condition for allowance and clearly patentably distinguishing over the prior art cited by the Examiner, particularly the Colwell '040 reference and the Duncraft reference.

In this response, the Applicant also files herewith a Request for Continued Examination (RCE). By doing this, the Applicant requests that this response be fully considered. Favorable action is hereby earnestly solicited.

### **CONCLUSION**

In view of the foregoing amendments and remarks, the Applicant respectfully submits that all of the claims pending in the above-identified application are in condition for allowance, and a notice to that effect is earnestly solicited.

If the present application is found by the Examiner not to be in condition for allowance, then the Applicant hereby requests a telephone or personal interview to facilitate the resolution of any remaining matters. Applicant's attorney may be contacted by telephone at the number indicated below to schedule such an interview.

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Examiner: Valenti, Andrea M.

The U.S. Patent and Trademark Office is authorized to charge any additional fees incurred as a result of the filing hereof or credit any overpayment to our deposit account #19-0120.

Respectfully submitted,  
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